

DORCHESTER COUNTY BOARD OF APPEALS

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CAMBRIDGE, MD 21613
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September 24, 2020 - Meeting Minutes

The Dorchester County Board of Zoning Appeals conducted a meeting on Thursday September 24, 2020 at 6pm in County Office Building Room 110, at 501 Court Lane, Cambridge MD 21613.

All attendees wore facial coverings and respected the 6 foot distancing regulations.

Present: Lin Spicer, Chair; Elizabeth Hill, Vice Chair; Pam Allen and Charles Dayton Jr, Commissioners
Absent: Commissioners Smith

Also in attendance: Walter Gunby, Esq., County Legal Counsel; Herve Hamon, Director of Planning; Christopher Drummond, Attorney; Brandon Vermilion, GIS Specialist.

Applicants were represented by:

BOA Case #2659, Godlee Residence - Variance	Tim Godlee, homeowner
BOA Case #2660, Bell Residence - Variance	Jeff Bell, homeowner
BOA Case #2661, REK Firearms – Special Exception and Appeal of Decision (On behalf of the Planning Department)	Daniel Cox, Attorney
(On behalf of neighbors in opposition)	Chris Drummond, Attorney
BOA Case#2656, Hubbard Solar – Special Exception and Variance	Ryan Showalter, Attorney
	Ryan Showalter, Attorney

Chairman Spicer called the meeting to order at 6pm. He conducted a roll call and welcomed the attendants. Counsel Gunby swore in the applicants' representative at the time of their testimony. Herve Hamon presented the applications.

1- **BOA Case #2659, Godlee Residence, Variance.** Property address: 22 Bellevue Avenue, Cambridge Maryland

❖ **Background:**

This is a request for a variance to authorize a reduction of the setback area on the side of the property, and allow construction of a screened-in porch, 6 feet away from the side yard property line (instead of the 15 feet compliant with Zoning Table 155 Att.2:1)

The property is located in the SR Zone, Suburban Residential, is out of Tidewater buffer, but in the Critical Area

Mr. Godlee explained:

A request has been made which would authorize a variance to reduce the setback area on the side of the property, and allow construction of a screened-in porch, off the kitchen

Mr. Hamon presented his recommendation:

Because of:

- the given conditions, i.e. the main house is shifted severely over to one side of the lot
- the fact that the proposed screened in porch will not add any new coverage
- the pre-existing condition of the garage location, already in the setback
- the interior layout of the house not conducive / optimum to a screened in porch in another location

Staff recommends considering this application favorably

❖ **Decision:**

Commissioner Allen made a motion to approve the case as submitted; it was seconded by Commissioner Dayton; all approved. The motion passed with a 4-0 vote in favor and the Variance was granted.

2- **BOA Case #2660, Bell Residence, Variance.** Property address: 3713 Fairfax Circle, East New Market, MD

❖ **Background:**

This is a request for a variance to authorize a reduction of the setback area on the front of the property, and allow construction of a pole building approximately 51 feet from the street curb edge, and 38.59 feet away from the front yard property line.

The house is located in the SR Zone Suburban Residential without water and sewer service; the road classification of Red Haven Road and Fairfax Circle is "local" requiring a 40 foot front yard setback, compliant with Zoning Table 155 Attachment 2:1.

However, the platted subdivision on record requests a 50 foot front yard setback.

Mr. Bell explained:

The purpose of the proposed building is to provide an additional off-street covered parking garage space accessible from the existing driveway (the location is function of the maneuverability of cars), and provide privacy screening to the existing swimming pool, currently exposed to the public right of way.

Mr. Hamon requested the applicant to get in touch with the Home Owner Association or regulatory body for the subdivision. Mr. Bell did and was unable to locate such authority. Research was also conducted within Planning Department and no association on record was found to be operational and enforcing subdivision regulations as they would relate to the original plat.

Based on the above, Mr. Hamon presented his recommendation:

Because of:

- The difficulty to access a new structure with enclosed parking on the site else than through the existing driveway
- The lack of screening of the existing swimming pool from the public right of way
- The general site conditions with septic reserve and well at the rear of the property
- The general alignment of neighboring houses being consistent with a 50 foot setback from curb side

Staff recommends considering this application favorably

❖ **Decision:**

Commissioner Dayton made a motion to approve the case as submitted; it was seconded by Vice Chair Hill; all approved. The motion passed with a 4-0 vote in favor and the Variance was granted.

3- **BOA Case #2661, REK Firearms, Special Exception - Appeal of Decision.** Property Address: 1604 Hudson Road, Cambridge, MD (also referred to as the Lloyds Firehouse)

❖ **Background:**

This is an appeal to reverse a negative decision made by the Zoning Official, and overturn the zoning determination prohibiting the use of the Rescue Fire Company building at the address listed as a gun shop, a commercial use not permitted under table 155 Attachment 1 of the Dorchester County Zoning Ordinance.

The property is located 100% in the RC zone, 100% in the Critical area, and 100% in the AE Flood Zone 4.0; 75% of the lot is in the Tidewater Buffer with the remaining 25% is in the Extended Buffer zone, and 40% of the lot features a MDE Trust Easement (according to the GIS map available on the County website).

Mr. Hamon presented the specifics and constraints of the site; recognized the error on the SDAT sheet calling the use "commercial" when in effect the parcel in question is located in the Resource Conservation (RC) zone, and the current use is "emergency service" as defined in the Dorchester County Zoning Ordinance Chapter 155.

Mr. Drummond stated that the title holder "Rescue Fire Company Inc." was not recorded appropriately.

He asked what was the relationship between Mr. Kramer, the applicant, and the Rescue Fire Company, seller of the property was. The answer was that Mr. Kramer has entered into a contract of sale with the seller.

Mr. Drummond also asked how Mr. Kramer was directly aggrieved by Mr. Ball's zoning decision since ownership had not been transferred yet.

Daniel Cox, attorney representing Mr. Kramer presented his case.

He called to the podium:

- Martin Pepper, member of the Fire Rescue Company
 - o Mr. Pepper stated that the building was NOT abandoned, with water and electricity running, and that he had been preparing the premises to be ready for the sale
- Sheriff Philipps, who explained there were no other services similar to Mr. Kramer's, repairing and providing guns for the Sheriff's department and the local farmers
- Ms. Kramer, licensed realtor:
 - o She stated that the property in question would be highly convenient to the local farmers, and provide the gun repair/maintenance services that are necessary for crop damage remediation (deer population control)
 - o She explained that the windmill across Hudson Road had a commercial classification
 - o She stated that Mr. Ball, prior Director of Planning and Zoning clearly expressed that using the Rescue Fire Company property as a commercial use was indeed not possible
- Mr. Kramer, applicant:
 - o He stated that there will be no use of heavy machinery on the premises; work will be limited to hand held tools
 - o He explained that the perc test was already done, and that he would use the premises in a similar fashion as when occupied by firemen (if anything, with less impact on the sanitary municipal system)
 - o He expressed that all standards and safety requirements defined by the Alcohol Tobacco and Firearms bureau would be respected, and he would expand the license he holds for his other gun service location
 - o He stated that his services would include gun safety classes and hunting instruction, as well as interaction with the local boys and girls scout groups.
 - o Mr. Kramer also certified there would be no discharge of firearms, nor testing of guns on the premises

Mr. Cox also presented as evidence a letter and map from Mr. Saderfield, showing the MDE easement

Ryan Showalter, representing Tim Beddison, owner of the adjacent property:

- Mr. Showalter cross examined the witnesses presented by Mr. Cox
- He expressed how he felt the Board of Appeal did not have grounds or authority to create a Special Exception for the use of the premises as commercial, knowing that the underlying zoning classification did not provide the option of seeking a special exception for a commercial operation in that specific location

Mr. Beddison, owner of the adjacent property, testified that he understood his deed to provide a reversion clause when the land that was passed onto the Rescue Fire Company ceased to be used as an emergency/essential service; Mr. Cox responded that the property had been sold in a sheriff's sale to the current owner, and title was wiped clean of any restriction.

Mr. Beddison's main concern was the firing of arms on the property in question, which would greatly affect his own ability to hunt on his property.

Christopher Drummond, attorney representing Planning and Zoning asked Mr. Hamon to testify the following:

- Is the property located in a commercial zone? Answer = No, it is located in the RC zone (Resource Conservation)
- In the Table of permitted uses (Chapter 155, Attachment 1):
 - o Under Commercial business & personal services including gun repair, is the use proposed permitted in the RC zone? Answer from Mr. Hamon = No
 - o Under Recreational / shooting range commercial including gun clubs, is the proposed use permitted in the RC zone? Answer from Mr. Hamon = it would be permitted under a Special Exception, however the proposed use is not a shooting range, nor a gun club; it is commercial in nature.

Mr. Cox rebutted Mr. Hamon's testimony, and asked him to read from the Critical Area Ordinance (68.8.D.4): "existing industrial and commercial facilities, including those that directly support agriculture, forestry, aquaculture or residential development not exceeding the density specified above, shall be allowed in resource conservation areas".

Mr. Hamon stated that the current existing use was neither industrial nor commercial; a fire house being defined in the Dorchester County Zoning Ordinance as an emergency service or essential service, allowable in all zones.

Mr. Cox presented his conclusion arguments, stressing how the proposed use in that location would enhance the public safety of Dorchester County, how much the local farmers benefit from Mr. Kramer's service, and how the enforcement departments rely on his business.

The Board Commissioners retired in a closed session to receive advice from Walter Gunby, attorney.

❖ **Decision:**

Chairman Spicer stated that the Board:

- Accept Mr. Saderfield map correction and eliminate the outline of a Maryland Department of the Environment Easement (MDE) overlaid onto the property (inaccurate on the GIS County map records)
- Disagree with the assessment, and overrule the prior Director of Planning and Zoning (Steve Ball) decision to deny the application and the proposed use in that location
- Find that the proposed use and business would be of great benefit to the community in helping the agricultural sector with the control of deer population and the reduction of crop damage

On the Special Exception determination:

The Board read each of the criteria that qualify the granting of a special exception, and concluded that the proposed use for gun shop at 1604 Hudson Road was an appropriate use.

The Special Exception deliberations highlighted the following:

- No discharge of firearms on the premises, inside or outside the building; no shooting on site of any kind
- The use approved is for servicing and sales of guns and shall concentrate on contributing to the safety and welfare of the community, and assisting farmers in controlling crop damage
- There will not be any additional environmental impact, no new disturbance of the Resource Conservation Area (no new parking or extension of impervious surfaces)

Vice-Chair Hill made a motion to grant Mr. Kramer, REK Firearms a Special Exception as submitted in BOA case #2661, with the expressed condition there will be no shooting on the premises. Commissioner Dayton seconded that motion, all approved in a 4-0 vote.

BOA Case#2656, Hubbard Solar – Special Exception and Variance, was deferred to the next Board of Appeals meeting due to the late hour.

Chairman Spicer asked for a motion to adjourn the meeting.

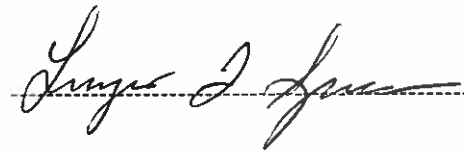
Vice Chair Hill made a motion to adjourn the meeting; it was seconded by Commissioner Dayton; all approved.

The meeting adjourned at 9:45pm.

Respectfully submitted.

Herve O. Hamon

Herve O. Hamon, AICP, Director of Planning & Zoning



-----Approved by the Chair

10/20/21

-----Date